

regulation or order issued thereunder. Any person who willfully violates any provision of the act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

APPENDIX A

<i>Special nuclear material</i>	<i>Quantity</i>
Uranium enriched in the isotope U-235.	350 grams contained Uranium-235.
Uranium-233-----	200 grams.
Plutonium-----	200 grams.

NOTE: Where a shipment is to contain more than one kind of special nuclear material (e. g., uranium enriched in the isotope U-235 and plutonium), the applicable quantity limits for the shipment should be calculated in the following manner: Determine for each kind of special nuclear material to be shipped, the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all the kinds of special nuclear material in the proposed shipment should not exceed "1" (i. e., "unity").

EXAMPLE: If a proposed shipment is to consist of 175 grams of contained uranium-235 and 50 grams of uranium-233, it may also include not more than 50 grams of plutonium. This limit was determined as follows:

$$\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1$$

APPENDIX B

<i>Special nuclear material</i>	<i>Quantity</i>
Uranium enriched in the isotope U-235.	100 grams contained Uranium-235.
Uranium-233-----	60 grams.
Plutonium-----	60 grams.

NOTE: Where a quantity of special nuclear material to be delivered to a carrier for transportation contains more than one kind of special nuclear material, the applicable quantity limits should be calculated in the following manner: Determine for each kind of special nuclear material to be shipped, the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all kinds of special nuclear material in the proposed shipment should not exceed "1" (i. e., "unity").

PART 80—GENERAL RULES OF PROCEDURE ON APPLICATIONS FOR THE DETERMINATION OF REASONABLE ROYALTY FEE, JUST COMPENSATION OR THE GRANT OF AN AWARD FOR PATENTS, INVENTIONS OR DISCOVERIES

GENERAL PROVISIONS

Sec.	
80.1	Scope of the part.
80.2	Definitions.
80.3	Notices.
80.4	Security.
80.5	Amendment.
80.6	Records of Board.
80.7	Motions.
80.8	Chairman; designation of panels; quorum.

APPLICATIONS

80.10	Applicants.
80.11	Form and content.
80.12	Filing of applications.

EXAMINATION AND RESPONSE

80.20	Examination.
80.21	Recommendation for acquisition by purchase.
80.22	Response.

PREHEARING CONFERENCE

80.30	Designation.
80.31	Conference procedure.
80.32	Interrogatories by the Board.

HEARING

80.40	Notice.
80.41	Order of procedure.
80.42	Submission and receipt of evidence.
80.43	Transcript of the testimony.
80.44	Oral arguments; proposed findings; written arguments.
80.45	Copies of the record of the hearing.

PROPOSED FINDINGS AND DETERMINATION

80.50	Formulation.
80.51	Exceptions.

ADJUDICATION AND COMMISSION REVIEW

80.60	Final action.
80.61	Commission review.

AUTHORITY: §§ 80.1 to 80.61 issued under sec. 161, 68 Stat. 948, as amended; 42 U. S. C. 2201. Interpret or apply secs. 151-160, 68 Stat. 943-948; 42 U. S. C. 2181-2190.

SOURCE: §§ 80.1 to 80.61 appear at 13 F.R. 3457, June 24, 1948, except as otherwise noted.

GENERAL PROVISIONS

§ 80.1 Scope of the part.

The regulations in this part provide the rules of procedure to be followed by any person making application to the Atomic Energy Commission for the determination of a reasonable royalty fee, compensation, or the grant of an award, and for the consideration of such applications pursuant to section 157 of chapter 13 of the Atomic Energy Act of 1954 (68 Stat. 947; 42 U.S.C. 2187), section 173 of chapter 15 of the Atomic Energy Act of 1954 (68 Stat. 953; 42 U.S.C. 2223), and section 1 of the Patent Act of July 19, 1952 (66 Stat. 806 and 808; 35 U.S.C. 183 and 188).

[24 F.R. 2782, Apr. 10, 1959]

§ 80.2 Definitions.

(a) All terms used in the regulations in this part which are defined in the Atomic Energy Act shall have the defined meaning.

(b) "Board" means the Patent Compensation Board designated by the Commission pursuant to section 157a. of the Atomic Energy Act of 1954, as amended, or any three or more members thereof sitting as a panel pursuant to § 80.8. of section 157 of chapter 13 of the act.

(c) "Application" shall mean the application provided for in §§ 80.10 to 80.12, inclusive.

(d) "Response" shall mean the document, to be filed by the Office of the General Counsel of the Commission, provided for in § 80.22.

(e) "Party," "petitioner," and "respondent" shall mean the applicant (personally or through his counsel) and the Office of the General Counsel of the Commission as the text may indicate. Each applicant shall be entitled to be represented by counsel.

[13 F.R. 3457, June 24, 1948, as amended at 24 F.R. 2782, Apr. 10, 1959; 25 F.R. 7619, Aug. 11, 1960]

§ 80.3 Notices.

All notices required by this part and the service of all documents will be by registered mail and will be effective as of the time received.

§ 80.4 Security.

In any proceeding under the regulations in this part, the Commission may issue any general or specific order, directive, or further regulation which it

determines to be appropriate pursuant to chapter 12 of the act to assure the common defense and security.

[20 F. R. 3931, June 7, 1955]

§ 80.5 Amendment.

Nothing in this part shall limit the authority of the Commission to issue or amend its regulations in accordance with law.

§ 80.6 Records of Board.

The records of the Board in cases filed before it, including the application, the response, the transcript and any other portion of the record, shall be open to public inspection unless (a) the Board otherwise directs upon a determination that opening of the records to public inspection would be contrary to the public interest or, (b) opening of the records is not in accord with security regulations and requirements of the Commission.

[18 F. R. 620, Jan. 29, 1953]

§ 80.7 Motions.

Motions may be made before the Board upon reasonable notice to the other parties.

[18 F. R. 620, Jan. 29, 1953]

§ 80.8 Chairman; designation of panels; quorum.

(a) The Chairman shall be designated by the Commission. The Chairman may, from time to time, with the concurrence of a majority of the members of the Board, divide the Board into two or more panels, each consisting of not less than three members. A majority of the number of members authorized to constitute the Board or a panel thereof shall constitute a quorum of the Board or panel, as the case may be.

(b) Panels shall sit at the times and places and hear the cases assigned as the Board directs and may make any order or render any decision which the Board would have been empowered to make or render if the matter had not been assigned to the panel. Every such order made or decision rendered by a panel shall be made as the order, or rendered as the decision, of the Board.

[25 F.R. 7619, Aug. 11, 1960]

APPLICATIONS

§ 80.10 Applicants.

(a) Any person claiming just compensation for any patent revoked in

whole or in part by subsections (a) and (b) of section 151 of the act may file an application for just compensation.

(b) Any owner of a patent licensed under section 158 or subsections (b) or (c) of section 153 or any patent licensee thereunder may file an application for the determination of a reasonable royalty fee.

(c) Any person making any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, who is not entitled to compensation or royalty therefor under the act, and who has complied with the provisions of section 151 (c) thereof, may file an application for an award.

(d) Any owner of a patent application that contains restricted data not belonging to the United States which the Commission has communicated to any foreign nation may make application for just compensation pursuant to section 173.

(e) Any applicant, his successors, assigns or legal representatives, whose patent is withheld because of an order of secrecy issued at the request of the Commission may, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, make application for compensation for the damage caused by the order of secrecy and/or for the use of the invention by the Government, resulting from his disclosure as provided by 35 U.S.C. 183.

[20 F.R. 3931, June 7, 1955, as amended at 24 F.R. 2782, Apr. 10, 1959]

§ 80.11 Form and content.

(a) Each application shall be signed by the applicant and shall state his name and post office address. Where the applicant elects to be represented by counsel, a request for entry of counsel's appearance shall be filed with or after the application, on a form obtainable from the Clerk of the Board.

(b) Each application shall contain a statement of the applicant's interest in the patent, patent application, invention or discovery, identifying any other claimants of whom the applicant has knowledge.

(c) Each application must contain a concise statement of all of the essential facts upon which it is based. No par-

ticular form of statement is required, but it will facilitate consideration of the application if the following specific data accompany the application:

(1) In the case of an issued patent, a copy of the patent;

(2) In the case of a patent application, a copy of the application and of all Patent Office actions and responses thereto;

(3) In the case of an invention or discovery as to which a report has been filed with the Commission pursuant to subsection (c) of section 151 of chapter 13 of the act, a copy of such report.

(4) The date relied upon as the date of invention.

(5) In all cases, a statement of the extent to which, if any, the invention or discovery was developed through federally financed research; the degree of its utility, novelty, and importance.

(6) In the case of an application for just compensation or an award, a statement of the actual use of such invention or discovery, to the extent known to the applicant.

(7) In all cases, the cost of developing the invention or discovery or acquiring the patent or patent application.

(8) The reasonable royalty fee proposed, or the amount sought as just compensation or award; the basis used in calculating it; and whether lump sum or periodic payments are sought.

(9) In the case of an application for just compensation pursuant to section 173 the ownership of the invention that is the subject matter of the patent application at the time of the communication shall be set forth as well as the restricted data contained in said application specifically identified.

(10) In the case of an application for compensation for the damage caused by an order of secrecy of a patent application and/or for the use of the invention by the Commission, the date of the order of secrecy, the date of the notice that the patent application is in condition for allowance, and, if known to the applicant, the date of the first use of the invention by the Commission.

(d) Each connected series of statements shall be set forth in separately numbered paragraphs in the application. Any exhibits or documents which accompany the application may be incorporated by reference.

(e) All applications shall be verified by the applicant or by the person having the best knowledge of such facts. In the case of facts stated on information and belief the source of such information and grounds of belief shall be given.

[13 F. R. 3457, June 24, 1948, as amended at 20 F.R. 3931, June 7, 1955; 24 F.R. 2782, Apr. 10, 1959]

§ 80.12 Filing of applications.

(a) Five copies of each application shall be filed with the Clerk of the Board. At the applicant's election, only one copy of the accompanying exhibits need be filed.

(b) The Clerk of the Board will acknowledge the receipt of the application in writing and advise the applicant of the docket number assigned to the application.

(c) All communications concerning the application and all documents thereafter filed in the proceeding shall bear the docket number of the application.

EXAMINATION AND RESPONSE

§ 80.20 Examination.

Upon receipt of the application, a preliminary examination will be made by the Commission staff.

§ 80.21 Recommendation for acquisition by purchase.

At any time following the filing of an application and prior to final determination, the applicant may be requested in writing to meet with one or more members of the Commission staff to discuss the possibility of acquisition by purchase of the invention or discovery or patent or patent application, as the case may be. The time prescribed in § 80.22 for the filing of the response shall be extended by a time equivalent to any period in which negotiations are being conducted (beginning with the initial communication to the applicant and ending either with acceptance or rejection of a proposal or with a written communication by the applicant stating that negotiations are to be terminated).

[20 F. R. 3932, June 7, 1955]

§ 80.22 Response.

Within a reasonable time and in no event more than four (4) months after receipt of the application, unless such time shall have been extended by special order of the Board for cause or pur-

suant to § 80.21, the Office of the General Counsel shall file with the Clerk of the Board a response containing a concise statement of the facts or law constituting a defense or any other relevant matter which it believes should be considered by the Board.

PREHEARING CONFERENCE

§ 80.30 Designation.

In any proceeding in which the Board in its discretion determines that a prehearing conference would be desirable, the Board may designate one of its members to preside at a prehearing conference to which the parties shall, upon reasonable notice, be invited to appear.

§ 80.31 Conference procedure.

(a) The prehearing conference shall be conducted in an informal manner and shall be devoted to a consideration of

(1) The simplification of the issues;

(2) The necessity or desirability of amendment or amplification of the application or the response;

(3) The possibility of obtaining agreement as to facts and documents which will avoid unnecessary proof;

(4) Such other matters as may facilitate the consideration by the Board.

(b) The Board member presiding at such conference shall prepare, with the assistance of the parties, a memorandum of matters upon which agreement has been reached, and such memorandum shall, when signed by the parties, become a part of the record.

§ 80.32 Interrogatories by the Board.

The Board in its discretion may submit to either party interrogatories for the purpose of eliciting and placing upon the record any facts which the Board considers relevant to the consideration and disposition of the application, and may require answers to these interrogatories to be made under oath. The interrogatories and answers thereto shall become part of the record.

[20 F. R. 3932, June 7, 1955]

HEARING

§ 80.40 Notice.

The Board shall in each case afford an opportunity for a hearing for the receipt of relevant evidence. At least thirty (30) days notice shall be given of the time and place of such hearing.

§ 80.41 Order of procedure.

Ordinarily evidence in support of the application shall be received first and thereafter evidence in reply. Thereafter rebuttal and any necessary additional evidence shall be received.

§ 80.42 Submission and receipt of evidence.

(a) Each witness shall, before proceeding to testify, be sworn or make affirmation.

(b) When necessary in order to prevent undue prolongation of the hearing, the Board may limit the amount of corroborative or cumulative evidence, may restrict the repetitious examination or cross-examination of witnesses, and shall otherwise control the conduct of the proceeding.

(c) The Board shall admit only relevant and material evidence.

(d) Opinion evidence shall be admitted when the Board is satisfied that the witness is properly qualified.

(e) Evidence may be received in affidavit form in the discretion of the Board. All affidavits shall be submitted not later than the opening of the hearing unless the Board for cause shown shall receive them at a later time. Each party shall be permitted to examine all affidavits received in evidence, and to file counter affidavits within such period as the Board shall fix. In determining the weight to be attached to testimony contained in affidavits, the Board shall consider the lack of opportunity for cross-examination.

(f) Opportunity shall be afforded for the cross-examination of witnesses. Objections to the admission or rejection of any evidence or to any limitation of the scope of examination or cross-examination shall state briefly the grounds of such objection and the transcript shall not include argument on such objection except as ordered by the Board. No objection may subsequently be relied upon unless timely made, and the ruling on each objection shall be made part of the transcript, together with any offer of proof which may be made.

(g) In the conduct of the hearing the Board shall ensure compliance with the security regulations and requirements of the Commission and take whatever steps it may deem appropriate to assure the common defense and security pursuant to the provisions of the act.

§ 80.43 Transcript of the testimony.

Testimony given at a hearing shall be reported verbatim. All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall be marked for identification and, upon a showing satisfactory to the Board of their authenticity, relevance, and materiality, shall be received and marked as exhibits in evidence. Such exhibits (including affidavits) shall, if practicable, be submitted in quintuplicate. Where the required number of copies are not made available, the Board may in its discretion order the exhibit read in evidence or require additional copies to be submitted within a specified time.

§ 80.44 Oral arguments; proposed findings; written arguments.

(a) In its discretion the Board may authorize oral argument at the close of the hearing.

(b) The Board may, at its discretion, announce at the hearing a reasonable period within which either party may submit to the Board proposed findings and a proposed recommendation. Such proposals shall be in writing, in quintuplicate, and copies shall be served on the opposing party.

(c) At the time fixed for the submission of proposed findings, either party may file written arguments in support based upon the evidence received at the hearing, citing the page or pages of the transcript of the testimony where such evidence may be found.

[13 F. R. 3457, June 24, 1948, as amended at 18 F. R. 620, Jan. 29, 1953]

§ 80.45 Copies of the record of the hearing.

The Board shall make provision for a stenographic record of the testimony and for furnishing it to the applicant upon payment of the cost. Suggested corrections to the transcript of the testimony shall be considered only if filed within a period to be fixed by the Board. Upon receipt of such suggested corrections, the Board in its discretion shall correct the transcript.

PROPOSED FINDINGS AND DETERMINATION**§ 80.50 Formulation.**

(a) Within a reasonable time after the close of the hearing the Board shall prepare and serve upon the parties its proposed findings and proposed deter-

mination and a statement of the reasons or basis therefor. The proposed findings and proposed determination shall be based upon the entire record and supported by reliable, probative and substantial evidence. On issues of fact, no finding shall be proposed except when deemed by the Board to be supported by the greater weight of the evidence. The proposed findings and proposed determination, together with the statement of the reasons or basis therefor, shall become part of the record.

(b) The Board shall further make a ruling upon each proposed finding and proposed recommendation presented by either party pursuant to § 80.44 (b). Such rulings shall be served upon each party and shall become part of the record.

(c) In the event that the application and any response filed by the Office of the General Counsel, and any answers to interrogatories which may be submitted to the applicant by the Board under § 80.32 disclose that the application does not present a basis for the payment of just compensation, the determination of a reasonable royalty fee, or the grant of an award, the Board may prepare and serve upon the parties its proposed findings and proposed determination with a statement of the reasons or basis therefor, with a notice that the proposed findings and proposed determination will be entered unless the applicant or Office of the General Counsel, within thirty (30) days after receipt of the notice, requests a hearing upon the application. If a hearing is requested under this section, the hearing prescribed in § 80.40 shall be ordered by the Board. If no hearing is requested in response to the notice of the proposal to enter the proposed findings and proposed determination, the order of the Board shall be entered.

[13 F. R. 3457, June 24, 1948, as amended at 20 F. R. 3932, June 7, 1955]

§ 80.51 Exceptions.

Either party may, within twenty (20) days after receipt of a copy of the proposed findings and proposed determination of the Board, unless such time shall have been extended by special order of the Board for cause, file with the Clerk of the Board exceptions to any part thereof or to the failure of the Board to include proposed findings requested un-

der § 80.44. The exceptions may be accompanied by briefs in support. Five (5) copies of the exceptions and the supporting briefs shall be filed, and a copy served upon the other party. The exceptions but not the supporting briefs shall become part of the record.

ADJUDICATION AND COMMISSION REVIEW¹

§ 80.60 Final action.

(a) Upon the expiration of the period prescribed in § 80.51, the Board shall proceed to a final consideration of the application on the basis of the entire record, including any exceptions, and the briefs in support filed by either party. The Board shall resolve questions of fact by what it deems to be the greater weight of the evidence and shall make its decision on the entire record. Its findings as to facts shall be supported by reliable, probative, and substantial evidence. The Board shall render an appropriate decision, together with a statement of its reasons or basis, determining as the case may be a reasonable royalty fee, the amount of compensation, or the amount of an award, or such other disposition as its determination requires.

(b) The Board shall further make a ruling upon each exception presented by either party pursuant to § 80.51.

(c) The decision of the Board shall constitute the final action of the Commission sixty (60) days after the date thereof, unless any party shall within such period file a petition for review of such decision.

[13 F. R. 3457, June 24, 1948, as amended at 24 F. R. 2782, Apr. 10, 1959]

§ 80.61 Commission review.

(a) The petition for review shall concisely and plainly state (1) the facts upon which the petitioner bases his claims that he has been adversely affected or aggrieved by the decision of the Board or that review thereof is required in the public interest under applicable statutes and rules, and (2) the relief or disposition of the application which the petitioner seeks by review.

(b) Seven copies of the petition for review and brief in support thereof shall be filed with the Clerk of the Board, who shall forthwith serve one copy of the petition and brief upon each of the

¹ 24 F. R. 2782, Apr. 10, 1959.

members of the Commission, together with a copy of the Board's decision. The petition and supporting brief shall be accompanied by a certificate of service thereof upon the respondent.

(c) Within twenty (20) days after the filing of the petition for review and supporting brief, the respondent may file seven copies of an opposing brief with the Clerk of the Board, who shall forthwith serve one copy thereof upon each of the members of the Commission. The opposing brief shall be accompanied by a certificate of service thereof upon the petitioner.

(d) In their consideration of the petition for review and briefs filed with respect thereto, the members of the Commission may take into consideration, without limitation, (1) the propriety of the compensation, royalty, or award on its face or the size thereof; (2) compliance by the claimant or applicant, and the Board, with the requirements and standards of applicable statutes and the regulations of the Commission; and (3) important questions of policy or administration presented by the record in the case.

(e) If the Commission denies the petition for review, the decision of the Board shall thereupon become the final action of the Commission. If the Commission grants the petition for review, it shall (1) direct the Clerk of the Board to forthwith certify the record of the case to the Commission, and (2) issue an order for review which shall fix a time within which the parties may submit exceptions and briefs with reference to the decision of the Board. After expiration of such time, the Commission shall proceed to a final decision in the manner provided in §§ 2.750, 2.753(b), 2.754, and 2.756 of this chapter.

(f) No officer or employee of the Commission, other than (1) a Commissioner, (2) a member of his immediate staff, or (3) Commission personnel who have not previously been involved, directly or indirectly, in the subject matter of the proceeding, in the proceeding itself, or in a factually related case, may participate or advise in the consideration of a petition for review or in the final decision of the Commission, except as a witness or counsel in the formal proceeding.

[24 F.R. 2783, Apr. 10, 1959]

PART 81—STANDARD SPECIFICATIONS FOR THE GRANTING OF PATENT LICENSES

GENERAL PROVISIONS

- Sec.
81.1 Purpose.
81.2 Definitions.
81.3 Communications.
81.4 Interpretations.

COMMISSION-OWNED PATENTS

- 81.10 Contents of application.
81.11 Basis for issuance.
81.12 Conditions and limitations of the license.

PATENTS DECLARED TO BE AFFECTED WITH THE PUBLIC INTEREST

- 81.20 Contents of application.
81.21 Basis for issuance.
81.22 Conditions of the license.

OTHER PATENTS USEFUL IN THE PRODUCTION OR UTILIZATION OF SPECIAL NUCLEAR MATERIAL OR ATOMIC ENERGY

- 81.30 Scope.
81.31 Contents of application.
81.32 Basis for issuance.
81.33 Conditions of the license.

AUTHORITY: §§ 81.1 to 81.33 issued under sec. 161, 68 Stat. 948, as amended; 42 U. S. C. 2201. Interpret or apply secs. 153, 156, 68 Stat. 945, 947; 42 U. S. C. 2183, 2186.

SOURCE: §§ 81.1 to 81.33 appear at 21 F. R. 606, Jan. 27, 1956, except as otherwise noted.

GENERAL PROVISIONS

§ 81.1 Purpose.

The regulations in this part establish the standard specifications for the issuance of licenses on patents owned by the Commission, patents declared to be affected with the public interest pursuant to section 153a of the act, and other patents useful in the production or utilization of special nuclear material or atomic energy licensed pursuant to section 153e of the act.

§ 81.2 Definitions.

As used in this part:

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto;

(b) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

§ 81.3 Communications.

All communications concerning the regulations in this part, including appli-